

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PROPOSED
37.86.610, 37.86.705, 37.86.2207	)	AMENDMENT
pertaining to Medicaid acute services	)	
reimbursement	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On August 16, 2008, the Department of Public Health and Human Services proposes to amend the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or who need an alternative accessible format of this notice. If you need an accommodation, contact the department no later than 5:00 p.m. on July 30, 2008. Please contact Rhonda Lesofski, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210; telephone (406)444-5622; fax (406)444-1970; e-mail dphhslegal@mt.gov.

3. The rules as proposed to be amended provide as follows. New matter is underlined. Matter to be deleted is interlined.

37.86.610 THERAPIES, REIMBURSEMENT (1) remains the same.

(2) Subject to the requirements of this rule, the Montana Medicaid program pays the following for therapy services:

(a) For patients who are eligible for Medicaid, the lower of:

(i) the provider's usual and customary charge for the service; or

(ii) ~~90% of the reimbursement provided in accordance with the methodologies described in ARM 37.85.212.~~ the amount provided in the department's Montana Medicaid speech therapy fee schedule dated January 1, 2008, occupational therapy fee schedule dated January 1, 2008, and physical therapy fee schedule dated October 1, 2007, which are adopted and incorporated by reference. A copy of the department's speech, occupational, and physical fee schedules are posted at the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov>. A copy of the department's Montana Medicaid Speech Therapy Fee Schedule, Occupational Therapy Fee Schedule, or Physical Therapy Fee Schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.705 AUDIOLOGY SERVICES, REIMBURSEMENT (1) remains the same.

(2) Subject to the requirements of this rule, the Montana Medicaid program pays the following for audiology services:

(a) For patients who are eligible for Medicaid, the lower of:

(i) the provider's usual and customary charge for the service; or

(ii) ~~90% of the reimbursement provided in accordance with the methodologies described in ARM 37.85.212~~ the amount provided in the department's Montana Medicaid Audiology fee schedule dated October 1, 2007, which is adopted and incorporated by reference. A copy of the department's audiology fee schedule is posted at the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov>. A copy of the department's Montana Medicaid Audiology Fee Schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.2207 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), REIMBURSEMENT (1) through (1)(d) remain the same.

(2) Reimbursement for outpatient chemical dependency treatment, nutrition, and private duty nursing services is specified in the department's fee schedule. This cross reference does not outline reimbursement. The department adopts and incorporates by reference the department's private duty nursing services EPSDT Fee Schedule dated ~~January 2007~~ July 2008 and the nutrition EPSDT Fee Schedule dated ~~July 2006~~ July 2008. The fee schedules are posted at <http://medicaidprovider.hhs.mt.gov>. Reimbursement for outpatient chemical dependency treatment is outlined in ARM 37.27.912. A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) through (10) remain the same.

(11) Reimbursements for school based health related services are specified in the School Based Health Service Fee Schedule dated October 2007, which is adopted and incorporated by reference. A copy of the school based health service fee schedule is posted at <http://medicaidprovider.hhs.mt.gov>. Rates are 90% of the fees as specified in (1)(a) through (d), adjusted to reimburse these services at the federal matching assistance percentage (FMAP) rate.

(12) and (13) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

4. The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.86.610, 37.86.705, and 37.86.2207, pertaining to Medicaid acute services. The proposed rule changes are necessary to bring

Medicaid reimbursement rates for therapies, audiology services, and school based health related services into conformity with the reimbursement methodology proposed for the resource based relative value scale (RBRVS) ARM 37.85.212 to be effective July 1, 2008. For information about the proposed rate methodology, please see MAR Notice No. 37-435.

The alternative to the proposed amendments would be to make no changes to the existing rules. Leaving the existing rules unchanged would adversely result in lower than intended reimbursement amounts for these provider types. In order to fairly implement the proposed RBRVS reimbursement methodology, the department has rejected the no change option.

The proposed amendments have no effect on Medicaid benefits or expenditures that have not been considered in MAR Notice No. 37-435.

There are approximately 102,000 Medicaid recipients and about 6,000 RBRVS providers that could be affected by the proposed amendments annually.

5. The department intends to apply these rules retroactively to July 1, 2008. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

6. Interested persons may submit comments concerning the proposed action in writing to Rhonda Lesofski, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena 59604-4210; by fax (406)444-1970; or by e-mail to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov). no later than 5:00 p.m. on August 14, 2008. Comments may also be faxed to (406)444-1970 or e-mailed to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov). The department maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. To be included on such a list, please notify this same person.

7. If persons who are directly affected by the proposed action wish to comment orally or in writing at a public hearing, they must make a written request for a public hearing and submit such request with any written comments to Rhonda Lesofski, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210; by fax (406)444-1970; or by e-mail to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov) no later than 5:00 p.m. on August 14, 2008.

8. If the Department of Public Health and Human Services receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of those who are directly affected by the proposed action; from the administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 10,803 based on approximately 102,000 Medicaid recipients and about 6,000 RBRVS providers and 25 EPSDT providers that

could be affected by the proposed amendments annually.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this Notice conform to the official version of the Notice as printed in the Montana Administrative Register, but advises all concerned persons that, in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. The web site may be unavailable at times, due to system maintenance or technical problems.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ John Koch  
Rule Reviewer

/s/ Joan Miles  
Director, Public Health and  
Human Services

Certified to the Secretary of State July 7, 2008.